



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,345	06/22/2001	Michael Gary Platner	050416	8906

23464 7590 01/10/2006

BUCHANAN INGERSOLL, P.C.
ONE OXFORD CENTRE, 301 GRANT STREET
20TH FLOOR
PITTSBURGH, PA 15219

EXAMINER

RHODE JR, ROBERT E

ART UNIT	PAPER NUMBER
----------	--------------

3625

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/888,345	Applicant(s) PLATNER ET AL	
	Examiner Rob Rhode	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2, 4 - 28 and 30 - 31 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 2, 4 - 28 and 30 - 31 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant amendment of 10-24-05 amended claims 5, 17 and 27 and canceled claims 1, 3 and 29 as well as traversed rejections of Claims 2, 4 – 28 and 30 - 31.

Currently, claims 2, 4 – 28 and 30 - 31 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 4, 5 - 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Messner (US 6,370,514 B1) in view of Walker (US 6,658,390 B1).

Regarding claim 5, Messner teaches a method comprising steps of receiving payment for a certificate comprising an authorization code, and wherein said authorization code is associated with at least one characteristic of said purchaser (see at least Abstract, Col 4, lines 1 – 6 and Col 8, lines 47 – 50); providing said certificate to user, and wherein at a time said certificate is provided to said user, information associated with said user is not provided to said system providing an online product (see at least

Art Unit: 3625

Abstract, Col 10, lines 59 – 66 and Col 11, 11 – 13); providing a website associated with said certificate over a system of networked computers, receiving entry of said authorization code on said website, wherein authorization code had been entered on said website by said user and providing an online product to said user (see at least Abstract, Col 3, lines 36 – 49, Col 4, lines 1 – 9, Col 9, lines 18 -22 and Col 11, lines 36 -41).

However, Messner does not specifically disclose or teach a method, wherein said certificate is sold to a purchaser and said purchaser sells said certificate to said user.

On the other hand and in the same area of online methods, Walker teaches a method wherein said certificate is sold to a purchaser and said purchaser sells said certificate to said user (see at least Abstract and Figure1A). Please note that Walker does not specifically disclose reselling certificates. However, Walker does disclose reselling products. In that regard, it would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the method of Walker with a method for reselling certificates.

It would have been obvious to one of ordinary skill in the art to have provided the method of Messner with the method of Walker to have enabled a method as recited in claim 5. Meessner discloses a method comprising steps of receiving payment for a certificate comprising an authorization code, and wherein said authorization code is

Art Unit: 3625

associated with at least one characteristic of said purchaser ; providing said certificate to user, and wherein at a time said certificate is provided to said user, information associated with said user is not provided to said system providing an online product; providing a website associated with said certificate over a system of networked computers, receiving entry of said authorization code on said website, wherein authorization code had been entered on said website by said user and providing an online product to said user (abstract). In turn, Walker teaches a method wherein said certificate is sold to a purchaser and said purchaser sells said certificate to said user (Abstract and Figure1A). Therefore, one of ordinary skill in the art tat the time of the Applicant's invention would have been motivated to extend the method of Messner with a method wherein said certificate is sold to a purchaser and said purchaser sells said certificate to said user. In this manner, the purchaser can use these methods to obtain additional enumeration for certificates such as tickets, which are in high demand.

Regarding claim 2, the recitations that "wherein said online product comprise an online product related to the funeral industry", such recitation is given little patentable weight because it imparts no structural or functional specificity which serves to patentably distinguish the instant invention from the other "online products" already disclosed by Messner (Col 8, lines 17 - 18).

Regarding claim 4, Messner teaches a method, wherein said certificate is purchased online by said user (Abstract).

Regarding claim 6 (Original), Messner teaches a method, wherein said certificate is not redeemable for cash (Col 3, lines 36 – 46).

Regarding claim 7 and related claim 18 (Original), Messner teaches a method, wherein said certificate comprises a physical certificate (Col 1, line 40 – 41).

Regarding claim 8 and 9 (Original), the recitations that “wherein said certificate comprises a free certificate”, such recitation is given little patentable weight because it imparts no structural or functional specificity which serves to patentably distinguish the instant invention from the other “online products/certificates” already disclosed by Messner.

Regarding claim 10 (Original), Messner teaches a method, wherein said certificate comprises a nonfree certificate allowing said user to obtain said online product at a reduced fee (Col 12, lines 34 – 35).

Regarding claim 11 (Original), the recitation that “wherein said certificate allows said user to rent software via an application service provider for a specified time period”, such recitations are given little patentable weight because it imparts no structural or functional specificity which serves to patentably distinguish the instant invention from the other “certificates” already disclosed by Messner.

Regarding claim 12 and related claim 23, Messner teaches a method, wherein said online product is an online service (Col 8, lines 17 – 18).

Regarding claim 13, Messner teaches a method, wherein said online product is customized to include information relating to said purchaser (Col 8, lines 17 – 18). Please note that Messner does not specifically disclose customizing products online. Messner does disclose products and Messner further discloses customization (Col 3, lines 41 – 42). Moreover, it was old and well known to one of ordinary skill in the art at the time of the applicant's invention that online systems for customizing products for the purchaser as well as the user were used extensively and include products such as ecards. This customizing of products will increase shopping options and save time too and thereby increase customer satisfaction, which will increase the probability that the user will purchase more products.

Regarding claim 14, Messner teaches a method, wherein a plurality of purchasers provide certificates to users and said online product is customized to reflect information relating to said purchaser (Abstract and Col 8, lines 42 –46).

Regarding claim 15, Messner teaches a method, wherein said authorization code is unique (Col 4, lines 1 – 9).

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Messner and Walker as applied to claim 5 above, and further in view of Shell (US 6,134,533).

The combination of Messner and Walker substantially discloses and teaches the Applicant's invention.

However, the combination does not specifically disclose and teach a method of providing a commission to said purchaser; purchasing a second online product by said user; and providing a second commission to said purchaser.

Regarding claim 16, Shell teaches a method of providing a commission to said purchaser; purchasing a second online product by said user; and providing a second commission to said purchaser (Abstract and Figure1).

It would have been obvious to one of ordinary skill to have provide the method the combination of Messner and Walker with the method of Shell to have enabled a method of providing a commission to said purchaser; purchasing a second online product by said user; and providing a second commission to said purchaser. . The combination of Messner and Walker discloses a method as recited in claim 17 and 27. In turn, Shell discloses a method of providing a commission to said purchaser; purchasing a second online product by said user; and providing a second commission to said purchaser

(Abstract and Figure 1). Therefore, one of ordinary skill in the art would have been motivated to extend the combination with a method of providing a commission to said purchaser; purchasing a second online product by said user; and providing a second commission to said purchaser.

Claims 17 – 20, 22 – 28 and 30 - 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Messner in view of “Giftcertificates.com Launches First Line of Personal-Interest Gift Certificates Available Online”; PR Newswire; Oct 11, 2000 and hereafter referred to as “Gift”.

Regarding claim 17 and related claim 27, Messner teach a method of: receiving payment for a plurality of certificates, wherein said payment is made by a purchaser to a system providing an online product; providing said plurality of certificates to said purchaser from said system providing an online product, each of said certificates comprising an authorization code, wherein said authorization code of each of said plurality of certificates is different, and further wherein said plurality of certificates are redeemable for said online product at a no fee; providing one of said plurality of certificates from said purchaser to a user, wherein at a time of the providing of said at least one of said plurality of certificates from said purchaser to said user, information associated with said user is not provided to said system providing online product; providing a web site associated with said certificate over a system of networked computers; receiving entry of said authorization code on said web site by said user;

Art Unit: 3625

providing said online product to said user at no fee/reduced fee in response to said step of entering said authorization code (see at least Abstract, Col 1, lines 24 – 30 and 61 – 64, Col 2, lines 1 – 4 and lines 65 – 68, Col 3, lines 36 – 49, Col 4, lines 1 – 9, Col 9, lines 18 – 22, Col 10, lines 59 – 66 and Col 11, lines 11 – 13 and 36 – 41 and Figures 1 and 2).

While Messner does disclose purchasing certificates, Messner does not specifically disclose a purchase of a plurality of certificates.

On the other hand, Gift teaches a method of a purchase of a plurality of certificates.

It would have been obvious to one of ordinary skill in the art to have provided the method of Messner with the method of Gift to have enabled a method of a purchase of a plurality of certificates. Messner discloses the limitations recited in claim 17 as well as 27 except specifically of a purchase of a plurality of certificates. Gift discloses a method of a purchase of a plurality of certificates. Therefore, one of ordinary skill would have been motivated to extend Messner with a method of a purchase of a plurality of certificates – in order for the purchaser to purchase multiple certificates and thereby buy for multiple users

Regarding claims 18, Messner teaches a method wherein a said plurality of certificates comprises physical certificates (Figure 2).

Regarding claims 19, 22 and 23 the recitations that “wherein said online product comprise an online product related to the funeral industry or “wherein second online product is an online product or service”, such recitation is given little patentable weight because it imparts no structural or functional specificity which serves to patentably distinguish the instant invention from the other “online products” already disclosed by Messner.

Regarding claim 20, the recitation that “giving said at least one of said plurality of certificates from said user to said second user”, such recitations are given little patentable weight because it imparts no structural or functional specificity which serves to patentably distinguish the instant invention from the other “giving (of gift certificates)” already disclosed by Messner. Moreover, “giving” is well known in everyday life and thereby this free choice that one makes of choosing to “give” is done everyday. Therefore, these choices of “giving” recited in the claim, which are made every day by millions of individuals is given very little patentable weight.

Regarding claim 24 and 25, Messner teaches a method wherein authorization code is associated with characteristics of said purchaser (Col 8, lines 47 - 49).

Regarding claim 26 and related claims 30 and 31, Messner teaches a method wherein online product is customized (Col 8, lines 17 – 18). Please note that Messner does not

Art Unit: 3625

specifically disclose customizing products online. Messner does disclose products and Messner further discloses customization (Col 3, lines 41 – 42). Moreover, it was old and well known to one of ordinary skill in the art at the time of the applicant's invention that online systems for customizing products for the purchaser as well as the user were used extensively and include products such as ecards. This customizing of products will increase shopping options and save time too and thereby increase customer satisfaction, which will increase the probability that the user will purchase more products.

Regarding claim 28, Messner teaches a method, wherein said authorization code is associated with characteristics that recorded for tracking purpose (Col 3, line 10).

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Messner in view of Gift as applied to claim 17 above, and further in view of Shell (US 6,134,533).

The combination of Messner and Gift discloses and teaches substantially the applicant's invention.

However, the combination does not specifically disclose and teach a method of providing a commission to said purchaser; purchasing a second online product by said user; and providing a second commission to said purchaser.

Regarding claim 16, Shell teaches a method of providing a commission to said purchaser; purchasing a second online product by said user; and providing a second commission to said purchaser (Abstract and Figure1).

It would have been obvious to one of ordinary skill to have provide the method the combination of Messner and Gift with the method of Shell to have enabled a method of providing a commission to said purchaser; purchasing a second online product by said user; and providing a second commission to said purchaser. The combination of Messner and Gift discloses a method as recited in claim 17 and 27. In turn, Shell discloses a method of providing a commission to said purchaser; purchasing a second online product by said user; and providing a second commission to said purchaser (Abstract and Figure 1). Therefore, one of ordinary skill in the art would have been motivated to extend the combination with a method of providing a commission to said purchaser; purchasing a second online product by said user; and providing a second commission to said purchaser.

Response to Arguments

Applicant's arguments with respect to claims 2, 4 – 28 and 30 - 31 have been considered but are moot in view of the new ground(s) of rejection.

Applicant asserts that Messner is not a proper reference for claim 5 because Messner teaches providing information associated with the user.

First, Messner teaches a number of embodiments. For example, Messner teaches that purchaser can buy the certificate at the brick and mortar store and deliver by hand himself or herself. At that point, Messner would fairly suggest to one ordinary skill that at this point information associated with the user is not provided to the system – since the purchaser provides the certificate to the user (see Col 10, lines 59 – 66 and Col 11, lines 11 – 13).

Please note that a “traverse” is a denial of an opposing party’s allegations of fact.¹ The Examiner respectfully submits that applicants’ arguments and comments do not appear to traverse what Examiner regards as knowledge that would have been generally available to one of ordinary skill in the art at the time the invention was made. Even if one were to interpret applicants’ arguments and comments as constituting a traverse, applicants’ arguments and comments do not appear to constitute an adequate traverse because applicant has not specifically pointed out the supposed errors in the examiner’s action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. 27 CFR 1.104(d)(2), MPEP 707.07(a). An adequate traverse must contain adequate information or argument to create on its face a reasonable doubt regarding the

¹ Definition of Traverse, Black’s Law Dictionary, “In common law pleading, a traverse signifies a denial.”

Art Unit: 3625

circumstances justifying Examiner's notice of what is well known to one of .
ordinary skill in the art. In re Boon, 439 F.2d 724, 728, 169 USPQ 231, 234
(CCPA1971).

If applicant does not seasonably traverse the well known statement during examination, then the object of the well known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). MPEP 2144.03 Reliance on Common Knowledge in the Art or "Well Known" Prior Art. In view of applicant's failure to adequately traverse official notice, the following is admitted prior art: Regarding claim 13, Messner teaches a method, wherein said online product is customized to include information relating to said purchaser (Col 8, lines 17 – 18). Please note that Messner does not specifically disclose customizing products online. Messner does disclose products and Messner further discloses customization (Col 3, lines 41 – 42). Moreover, it was old and well known to one of ordinary skill in the art at the time of the applicant's invention that online systems for customizing products for the purchaser as well as the user were used extensively and include products such as ecards. This customizing of products will increase shopping options and save time too and thereby increase customer satisfaction, which will increase the probability that the user will purchase more products.

Regarding claim 20, the recitation that "giving said at least one of said plurality of certificates from said user to said second user", such recitations are given little patentable weight because it imparts no structural or functional specificity which serves to patentably distinguish the instant invention from the other "giving (of gift certificates)"

already disclosed by Messner. Moreover, "giving" is well known in everyday life and thereby this free choice that one makes of choosing to "give" is done everyday.

Therefore, these choices of "giving" recited in the claim, which are made every day by millions of individuals is given very little patentable weight.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rob Rhode** whose telephone number is **571.272.6761**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **571.272.7159**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:

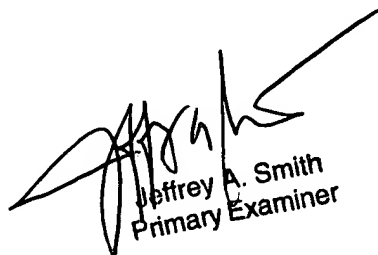
571.273.8300 [Official communications; including
After Final communications labeled
"Box AF"]

For general questions the receptionist can be reached at
571.272.3600

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). RER


Jeffrey A. Smith
Primary Examiner